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10/774,651	02/06/2004	David M. Oliver	RSW920030179US1	8803
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KUNZLER & MCKENZIE 8 EAST BROADWAY SUITE 600 SALT LAKE CITY, UT 84111			BARQADLE, YASIN M	
		ART UNIT	PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/774,651	OLIVER ET AL.	
	Examiner	Art Unit	
	YASIN M. BARQADLE	2456	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 22 May 2009.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,3-8,10-15,17-22 and 24-26 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1,3-8,10-15,17-22, and 24-26 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____ .	6) <input type="checkbox"/> Other: _____ .

Response to Amendment

2. The amendment filed on May 22, 2009 has been fully considered but are not persuasive.

Response to Arguments

The Applicant argues that "*Description of the Related*" is not Prior Art. . The Examiner maintains that *Description of the Related* as presented is considered a prior art . Paragraphs 2-6 indicate how in the related arts discloses notifying an SMS device of the arrival of a new email by sending SIA activation message to the device.

Arguments relating to "SIA message Identifier" and " initiation command", The Examiner notes the MSN docmuent in page 2 of MSN document-Basic teaches a command identifier, followed by parameters included with the command.

In essence the Applicant argues “neither reference discloses initiating an action a non-SMS client in response to a SIA message after identifying an SIA message identifier in an activation message.” Page 9, forth paragraph.

The Examiner notes, the combined teachings of APA and Gress the argued limitation.

In essence the applicant also argues “the Office Action does not establish that sending an activation message to a non-SMS device over an IP-based messaging protocol, determining whether the activation message comprises a server initiated action (SIA) message identifier, and automatically initiating an action contained in an SIA message in the activation message in response to the activation message comprising the SIA message identifier are necessarily present in the MSN messaging protocol taught in the MSN reference.” (Page 12-17).

The Examiner notes that combined teaching of the references indicated in the office action teach the invention based on combinations of those references. The Examiner also notes the Graham Factor analysis is performed as indicated in the detailed office action.

For example, APA describes essentially the same system as the present invention except for the fact that the device is a SMS device such as a cell phone (see Spec. at paragraph 2). The SMS device receives an “alert message” indicating that a new email has arrived and the user (in response) “takes action to connect to the enterprise server to download and read the email” (see id., with emphasis added)

Gress teaches the missing limitation of specifying where the device is a non-SMS device.

Gress teaches a system for converting SMS messages into a unified format and sending the messages to non-SMS devices. For example, in figures 1 and 2, Gress shows a unified messaging system (20) that receives SMS messages and converts them into, for example, email messages (40). Furthermore, MSN teaches receiving messages containing a Content-Type field that identifies the type of message, wherein the type of message can be an SIA chat message (an email notification) (text/x-msmsgsemailnotification) or a textual message from another user (text/plain) [see “messaging.php”, pages 5-6; “connecting.php”, page 4]. Obviously one of ordinary skill in the art would utilize Gress' system that includes message identifier in order receive the SIA activation messages described in the APA. One ordinary skill in the art would be motivated to combine APA with Gress, because Gress' system provides advantages such as enabling non-SMS type devices to access SMS messages and fulfilling the need for a unified messaging system (see Gress, at abstract, col. 2, ll. 1-14).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-8, 10-15, 17-22, and 24-26 are rejected under 35 U.S.C.

103(a) as being unpatentable over MSN ("MSN Instant Messenger Protocol", 23-27 April 2002, printed from hypothetic.org).

MSN describes the MSN Messenger protocol. The MSN Messenger Protocol uses email notifications as detailed on page 4 of the "connecting.php" page. The most relevant section of that page is reproduced as follows:

Other Server Messages

Besides the two initial messages that are received when logging in, the server can also send other types of messages during the session. I have found two of these so far: `text/x-msmsgsemailnotification` and `text/x-msmsgsactivemailnotification`. The first one notifies you when a new email has been received. The second notifies you when an email has been deleted (or maybe something else also). Below is an example of a new email being received.

MSG	Hotmail	Hotmail	340
MIME-Version:			1.0
Content-Type:	<code>text/x-msmsgsemailnotification;</code>	<code>charset=UTF-8</code>	
From:	Mike	Mintz	
Message-URL:		/cgi-bin/getmsg?msg=MSG1029401739.3&start=1610592&len=402&c	
urinbox=ACTIVE			
Post-URL:			
	<code>https://lc1.law13.hotmail.passport.com/ppsecure/domessengergo</code>		
	<code>gin/EN</code>		
Subject:		III	
Dest-Folder:		ACTIVE	
From-Addr:		<code>example@passport.com</code>	
id:	2		

Below is an example of when I erase a message in my inbox.

MSG	Hotmail	Hotmail	345
MIME-Version:			1.0
Content-Type:	<code>text/x-msmsgsactivemailnotification;</code>		
charset=UTF-8			

Src-Folder:	ACTIVE
Dest-Folder:	trash
Message-Delta:	1

Claims 1, 8, and 15 are directed to a method, system, and product for activating a non-SMS device connectable to an IP-based network, comprising the steps of, means for, and code for:

sending an activation message to said non-SMS device over an IP-based messaging protocol, the activation message comprising a server initiated action (SIA) message identifier and an initiation command, the initiation command comprising an action for execution on the non-SMS device;

determining whether said activation message comprises the SIA message identifier (MSN teaches receiving messages containing a Content-Type field that identifies the type of message, wherein the type of message can be an SIA chat message (an email notification) (text/x-msmsgsemailnotification) or a textual message from another user (text/plain) [see “messaging.php”, pages 5-6]); and

automatically initiating the action from the initiation command in said activation message in response to the activation message comprising the SIA message identifier. (The email notification message shown above is clearly an “activation message” that “contains a server initiated action (SIA) message.” See *the MSN docmuent in page 2 of MSN document-Basic.*

1. MSN does not expressly disclose that the inherent device that receives the message is a “non-SMS device.”

However, nowhere does MSN teach or suggest that the protocol is in any way limited to SMS devices. It would have been obvious to one of ordinary skill in the art to use the MSN protocol on a well-known non-SMS device such as a personal computer. The motivation for doing so would have been to utilize any of the advantages of the MSN protocol such as the ability to chat with other users and receive email notifications.

2. MSN does not expressly disclose “determining” whether received messages “contain a server initiated action (SIA).”

MSN discloses that the recipient device receives various different types of messages such as profile messages with Content-Type field of "text/x-msmsgsprofile" and email notification messages with Content-Type field of "text/x-msmsgsemailnotification" (see “connecting.php” at pp. 3-4).

This “determining” step appears to be inherent because if the recipient does not determine the type of message then the message cannot be processed accordingly. Moreover, even if there is some reason unbeknownst to the examiner that this step is not inherent, it would clearly have been obvious to perform this determining in order to process these messages according to their content type.

3. MSN does not expressly disclose, if the activation message contains an SIA message, configuring the receiving device to “initiate an action contained in the SIA message.”

The activation message corresponds to the email notification. The claimed “action” can be merely opening a browser using the “Message-URL” and “Post-URL” specified in the email notification.

Thus, “configuring” the device to initiate an action merely amounts to installing a browser on the device. It would have been obvious to one of ordinary skill in the art to install such a browser so that the user could view the email corresponding to email notifications.

As to claims 4, 11, and 18, MSN teaches that the IP-based messaging protocol comprises a chat protocol (MSN Instant Messenger Protocol) [see “messaging.php”, pages 5-6, which shows users chatting with each other].

As to claims 3, 7, 10, 14, 17, and 21, MSN teaches that the activation message (email notification message) further includes an initiation command (Message-URL and Post-URL) [see “connecting.php”, page 4].

One of ordinary skill in the art would appreciate that the initiation command (Message-URL and Post-URL) are clearly intended to initiate access an email message (the email from Mike Mintz) [see “connecting.php”, page 4].

MSN does not expressly disclose that the client receiving the command (Message-URL and Post-URL) initiates the command (Message-URL and Post-URL) to access the email message (the email from Mike Mintz), as set forth in claims 3 and 10. Also, MSN does not disclose launching of a program on the non-SMS device to download email via the IP-based network, as set forth in claims 7 and 14.

It would have been obvious to one of ordinary skill in the art to initiate the command (Message-URL and Post-URL) to access the email message (the email from Mike Mintz) [see “connecting.php”, page 4] using a well-known browser program such as Internet Explorer. The motivation for doing so would have been to access the contents of the email message.

As to claims 5, 6, 12, 13, 19, and 20, MSN does not expressly disclose that the non-SMS device client provides an alert or indication that there is a new email available over the IP-based network.

Providing the command (Message-URL and Post-URL) to a well-known browser program such as Internet Explorer, as detailed above, is an indication to the browser and/or the user that there is email available for download.

It would have been obvious to one of ordinary skill in the art provide the command (Message-URL and Post-URL) to a well-known browser program such as Internet Explorer. The motivation for doing so would have been to access the contents of the email message.

As to claims 22 and 26, MSN teaches receiving messages containing a Content-Type field that identifies the type of message, wherein the type of message can be an SIA chat message (an email notification) (text/x-msmsgsemailnotification) or a textual message from another user (text/plain) [see “messaging.php”, pages 5-6; “connecting.php”, page 4].

identify the SIA chat messages containing message identifiers (the new email notification messages has MIME content type to identify the message (text/x-msmsgsemailnotification and text/x-msmsgsactivemailnotification. The first one notifies you when a new email has been received. The second notifies you when an email has been deleted (or maybe something else also). See page 12 under the Sub Title other messages), automatically executing instructions contained in said SIA chat message to activate an initiation command contained in said SIA chat message response to the said chat message comprising the SIA message identifier, the initiation command comprising an action for execution on the device . (The email notification message shown above is clearly an “activation message” that “contains a server initiated action (SIA) message.” See *the MSN docmuent in page 2 of MSN document-Basic..*

1. MSN does not expressly disclose blocking display of an SIA chat message (an email notification message). But, one of ordinary skill in the art would readily recognize that the SIA chat messages (email notifications) are not intended to be displayed because the textual messages that are intended to be

Art Unit: 2456

displayed have a Content-Type field value set to “text/plain” [see “messaging.php”, pages 5-6]. It would have been obvious to one of ordinary skill in the art to block standard display of the SIA chat messages (email notification messages) to comply with the intended use of the protocol.

2. MSN teaches that there are instructions (Message-URL and Post-URL) contained in said SIA chat messages (email notifications) [see “connecting.php”, page 4]. But, MSN does not expressly disclose executing these instructions. One of ordinary skill in the art would readily recognize that the instructions (Message-URL and Post-URL) were intended to retrieve an associated email. It would have been obvious to one of ordinary skill in the art to execute the instructions (Message-URL and Post-URL) using a known browser to retrieve the email.

3. MSN does not expressly state that the client is a non-SMS device. However, nowhere does MSN teach or suggest that the protocol is in any way limited to SMS devices. It would have been obvious to one of ordinary skill in the art to use the MSN protocol on a well-known non-SMS device such as a personal computer. The motivation for doing so would have been to utilize any of the advantages of the MSN protocol such as the ability to chat with other users and receive new email notifications.

As to claims 24 and 25, executing the instructions (Message-URL and Post-URL) using a browser is an action that alerts that indicates receipt of the

email by the server and automatically connects the non-SMS device to the server.

Claims 1, 3-8, 10-15, 17-22, and 24-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over APA (the Admitted Prior Art in the Background section of the Specification) in view of Gress (U.S. Patent No. 7,024,209).

The APA admits that substantial claimed features such as notifying an SMS device of the arrival of a new email by sending an SIA activation message to the device, waking-up the device, and downloading the email on the device were well known in the art [see Specification, paragraphs 2-6]. The only apparent difference between the APA and these claims is that the claims specify that the device is a non-SMS device.

Gress teaches a system for converting SMS messages into a unified format and sending the messages to non-SMS devices [see Gress, abstract]. It would have been obvious to one of ordinary skill in the art to utilize Gress' system to receive the SIA activation message and retrieve the email accordingly because Gress' system provides advantages such as enabling non-SMS type devices to access SMS messages and fulfilling the need for a unified messaging system [see Gress, abstract, col. 2, ll. 1-14].

Conclusion

1. **ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yasin Barqadle whose telephone number is 571-272-3947. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571-272-

Art Unit: 2456

3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Yasin M Barqadle/

Primary Examiner, Art Unit 2456